



OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE

[Docket Number USTR–2022-0004]

Annual Review of Country Eligibility for Benefits Under the African Growth and Opportunity Act

AGENCY: Office of the United States Trade Representative.

ACTION: Notice and request for comments.

SUMMARY: The Office of the United States Trade Representative (USTR) is announcing the initiation of the annual review of the eligibility of the sub-Saharan African countries to receive the benefits of the African Growth and Opportunity Act (AGOA). The AGOA Implementation Subcommittee of the Trade Policy Staff Committee (AGOA TPSC Subcommittee) is developing recommendations for the President on AGOA country eligibility for calendar year 2023 and requests comments for this review. Due to the COVID-19 pandemic, the AGOA TPSC Subcommittee will foster public participation via written submissions rather than an in-person hearing. This notice includes the schedule for submission of comments and responses to questions from the AGOA TPSC Subcommittee related to this review.

DATES:

June 23, 2022 at 11:59 p.m. EDT: Deadline for submission of written comments on the eligibility of sub-Saharan African countries to receive the benefits of AGOA.

July 7, 2022 at 11:59 p.m. EDT: Deadline for the AGOA TPSC Subcommittee to pose any questions on written comments.

July 15, 2022 at 11:59 p.m. EDT: Deadline for submission of commenters' responses to questions from the AGOA TPSC Subcommittee.

July 22, 2022 at 11:59 p.m. EDT: Deadline for replies from other interested parties to the written comments and responses to the AGOA TPSC Subcommittee questions.

August 3, 2022 at 11:59 p.m. EDT: The AGOA TPSC Subcommittee to pose any additional questions on written comments.

August 12, 2022 at 11:59 p.m. EDT: Deadline for submission of responses to any additional questions from the AGOA TPSC Subcommittee.

ADDRESSES: USTR strongly prefers electronic submissions made through the Federal eRulemaking Portal: <https://www.regulations.gov> (Regulations.gov), using Docket Number USTR–2022-0004. Follow the instructions for submitting comments in ‘Requirements for Submissions’ below. For alternatives to on-line submissions, please contact Jeremy Streatfeild, Director of African Affairs, Office of African Affairs, in advance of the relevant deadline at Jeremy.E.Streatfeild@ustr.eop.gov or (202) 395–8642.

FOR FURTHER INFORMATION CONTACT: Jeremy Streatfeild, Director of African Affairs, Office of African Affairs, at Jeremy.E.Streatfeild@ustr.eop.gov or (202) 395–8642.

SUPPLEMENTARY INFORMATION:

I. Background

AGOA (Title I of the Trade and Development Act of 2000, Pub. L. 106–200) (19 U.S.C. 2466a *et seq.*), as amended, authorizes the President to designate sub-Saharan African countries as beneficiaries eligible for duty-free treatment for certain additional products not included for duty-free treatment under the Generalized System of Preferences (GSP) (Title V of the Trade Act of 1974 (19 U.S.C. 2461 *et seq.*) (1974 Act), as well as for the preferential treatment for certain textile and apparel articles. The President may designate a country as a beneficiary sub-Saharan African country eligible for AGOA benefits if he determines that the country meets the eligibility criteria set forth in section 104 of AGOA (19 U.S.C. 3703) and section 502 of the 1974 Act (19 U.S.C. 2462).

Section 104 of AGOA includes requirements that the country has established or is making continual progress toward establishing, among other things:

- a market-based economy
- the rule of law
- political pluralism
- the right to due process
- the elimination of barriers to U.S. trade and investment
- economic policies to reduce poverty
- a system to combat corruption and bribery
- protection of internationally recognized worker rights

In addition, the country may not engage in activities that undermine U.S. national security or foreign policy interests or engage in gross violations of internationally recognized human rights. Section 502 of the 1974 Act provides for country eligibility criteria under GSP. For a complete list of the AGOA eligibility criteria and more information on the GSP criteria, see section 104 of the AGOA and section 502 of the 1974 Act.

Section 506A of the 1974 Act requires the President to monitor and annually review the progress of each sub-Saharan African country in meeting the foregoing eligibility criteria in order to determine if a beneficiary sub-Saharan African country should continue to be eligible, and if a sub-Saharan African country that currently is not a beneficiary, should be designated as a beneficiary. If the President determines that a beneficiary sub-Saharan African country is not making continual progress in meeting the eligibility requirements, the President must terminate the designation of the country as a beneficiary sub-Saharan African country. The President also may withdraw, suspend, or limit the application of duty-free treatment with respect to specific articles from a country if they determine that it would be more effective in promoting compliance with AGOA

eligibility requirements than terminating the designation of the country as a beneficiary sub-Saharan African country.

For 2022 the President designated the following 36 countries as beneficiary sub-Saharan African countries:

1. Angola
2. Benin
3. Botswana
4. Burkina Faso
5. Cabo Verde
6. Central African Republic
7. Chad
8. Comoros
9. Democratic Republic of Congo (re-instated in 2021)
10. Republic of Congo
11. Cote d'Ivoire
12. Djibouti
13. Eswatini
14. Gabon
15. The Gambia
16. Ghana
17. Guinea-Bissau
18. Kenya
19. Lesotho
20. Liberia
21. Madagascar
22. Malawi
23. Mauritius
24. Mozambique
25. Namibia
26. Niger
27. Nigeria
28. Rwanda (AGOA apparel benefits suspended effective July 31, 2018)
29. Sao Tome & Principe
30. Senegal
31. Sierra Leone
32. South Africa
33. Tanzania
34. Togo
35. Uganda
36. Zambia

The President did not designate the following sub-Saharan African countries as beneficiary sub-Saharan African countries for 2022:

1. Burundi
2. Cameroon
3. Equatorial Guinea (graduated from GSP)

4. Eritrea
5. Ethiopia (terminated in 2022)
6. Guinea (terminated in 2022)
7. Mali (terminated in 2022)
8. Mauritania
9. Seychelles (graduated from GSP)
10. Somalia
11. South Sudan
12. Sudan
13. Zimbabwe

The AGOA TPSC Subcommittee is seeking public comments to develop recommendations to the President in connection with the annual review of sub-Saharan African countries' eligibility for AGOA benefits. The Secretary of Labor may consider comments related to the child labor criteria to prepare the U.S. Department of Labor's report on child labor as required under section 504 of the 1974 Act.

II. Public Participation

Due to the COVID-19 pandemic, the AGOA TPSC Subcommittee will foster public participation via written submissions rather than an in-person hearing for the 2023 AGOA Eligibility Review. USTR invites public comment according to the schedule set out in the Dates section above. The AGOA TPSC Subcommittee will review comments and replies to comments, if any, and may ask clarifying questions to commenters according to the schedule set out above. The AGOA TPSC Subcommittee will post the questions it asks on the public docket, other than questions that include properly designated business confidential information (BCI). Any questions that include properly designated BCI will not be posted on the docket for public viewing, but rather will be sent via email to the relevant commenters. Replies to these questions that also contain BCI must follow procedures laid out in section IV.

III. Requirements for Submissions

You must submit comments and answers to questions from the AGOA TPSC Subcommittee by the applicable deadlines set forth in this notice. You must make all submissions in English via Regulations.gov, using Docket Number USTR–2022–0004.

USTR will not accept hand-delivered submissions. To make a submission using Regulations.gov, enter Docket Number USTR–2022-0004 in the ‘search for’ field on the home page and click ‘search.’ The site will provide a search results page listing all documents associated with this docket. Find a reference to this notice by selecting ‘notice’ under ‘document type’ in the ‘refine documents results’ section on the left side of the screen and click on the link entitled ‘comment.’ The Regulations.gov website offers the option of providing comments by filling in a ‘comment’ field or by attaching a document using the ‘attach files’ field. The AGOA TPSC Subcommittee prefers that you provide submissions in an attached document and note ‘see attached’ in the ‘comment’ field on the online submission form. At the beginning of the submission, or on the first page (if an attachment) include the following text (in bold and underlined): (1) “2023 AGOA Eligibility Review”; (2) the relevant country or countries; and (3) whether the document is a comment, a reply to a comment, or an answer to an AGOA Subcommittee question. Submissions should not exceed 30 single-spaced, standard letter-size pages in 12-point type, including attachments. Include any data attachments to the submission in the same file as the submission itself, and not as separate files. You will receive a tracking number upon completion of the submission procedure at Regulations.gov. The tracking number is confirmation that Regulations.gov received the submission. Keep the confirmation for your records. USTR is not able to provide technical assistance for Regulations.gov. USTR may not consider documents that you do not submit in accordance with these instructions. If you are unable to provide submissions as requested, please contact Jeremy Streatfeild, Director of African, Office of African Affairs, in advance of the relevant deadline at Jeremy.E.Streatfeild@ustr.eop.gov or (202) 395–8642, to arrange for an alternative method of transmission.

General information concerning USTR is available at www.ustr.gov.

IV. Business Confidential Submissions

If you ask USTR to treat information you submitted as BCI, you must certify that the information is business confidential and you would not customarily release it to the public. You must clearly designate BCI by marking the submission ‘BUSINESS CONFIDENTIAL’ at the top and bottom of the cover page and each succeeding page, and indicating, via brackets, the specific information that is BCI. Additionally, you must note that the submission contains information that is business confidential by including ‘Business Confidential’ in the ‘comment’ field. For any submission containing BCI, you must separately submit a non-confidential version, *i.e.*, not as part of the same submission with the confidential version, indicating where BCI has been redacted. USTR will post the non-confidential version in the docket and it will be open to public inspection.

V. Public Viewing of Review Submissions

USTR will make public versions of all documents relating to these reviews available for public viewing pursuant to 15 CFR 2017.4, in Docket Number USTR–2022–0004 on Regulations.gov, upon completion of processing. This usually is within two weeks of the relevant due date or date of the submission.

VI. Petitions

At any time, any interested party may submit a petition to USTR with respect to whether a beneficiary sub-Saharan African country is meeting the AGOA eligibility requirements. An interested party may file a petition through Regulations.gov, under Docket Number USTR–2022–0004.

William Shpiece,
Chair of the Trade Policy Staff Committee,
Office of the United States Trade Representative.

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